**HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI**

**Writ Petition No.14013 of 2004**

**Between:**

Shaik Masthan Shaw

... Petitioner

**And**

Union of India, Rep. by Deputy
Secretary (Ministry of Home Affairs),
F.F. Division, Lok Naik Bhavan,
Khan Market, New Delhi.

... Respondent

**:: ORDER::**

Counsel for the Petitioner: Shri Y. Rama Rao

Counsel for the Respondent: Shri A. Rajasekhar Reddy, Assistant Solicitor General.

**October 31, 2006**

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In this petition, the petitioner has prayed for quashing the decision of the Government of India to reject his claim for pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short, 'the 1980 Scheme').

The petitioner claims to have taken part in the movement launched against the Government of Nizam in 1947-48. In the year 1984, he submitted an application for grant of pension under the 1980 Scheme by being treated as a freedom fighter. After 13 years, he filed Writ Petition No.14836 of 1997 for issue of a direction to the respondents to place his case before the Screening Committee constituted by the Central Government for scrutinizing the applications of the freedom fighters. The same was disposed of by the learned Single Judge on 11-7-1997 and the relief in terms of the prayer made was granted. The petitioner has averred that even though his case was duly recommended by the Screening Committee, the Government of India arbitrarily rejected the same on the pretext of some discrepancy in the date of birth mentioned in the application and verification report sent by the State Government. In paragraph 7 of his affidavit, the petitioner has tried to explain the discrepancy in the age by making the following averments:

> "7. I submit that I am an illiterate person and a rustic villager in the application submitted before the respondent in the year 1984 the age was erroneously mentioned which is nothing but a typographical error and for determining the correct age, I have submitted all the relevant information

including the voters list and mere wrong mentioning of my date of birth in the application submitted in the year 1984 cannot be a ground for rejection of my legitimate right and the special screening committee after thorough has recommended my case and the State has also recommended my case vide letter No.2059/FF.I/A.1/2001 dt.18-2-2002 as such the impugned letter dated 17th January, 2003 is illegal, arbitrary and void ab initio and violative of Articles 14 and 21 of the Constitution of India besides violative of principles of natural justice and they are liable to be set aside in the interest of justice and equity."

In the counter-affidavit filed by him on behalf of the Union of India, Shri S.D. Kaushik, Under Secretary in the Ministry of Home Affairs, has narrated the facts relating to constitution of various committees to scrutinise the cases of the persons who are said to have participated in Hyderabad Liberation Movement. In paragraphs 15, 16 and 18 to 20 of his affidavit, Shri S.D. Kaushik has averred as under:

"15. That serious allegations were received from several quarters regarding recommendations made by the last Committee headed by Shri Rajeswar Rao. Thus, a decision was taken to get the genuineness of these cases verified from the State Government authorities. As such, all the cases scrutinised and recommended by the last Screening Committee were referred back to the concerned State Government for appropriate verification. Several relaxations were made as the State Government could not verify these cases as per the guidelines of the Scheme. Under the provision of the scheme, Personal Knowledge Certificate (PKC) should be from a certifier of the same district who had undergone proven jail suffering of 2 years or more. On the basis of difficulties expressed by the Government of Andhra Pradesh, the requirement of jail suffering of the certifier was reduced from two years to six

months in Committee recommended cases and it was decided to accept certificate of a freedom fighter of neighbouring District also. The requirement of Camp-in-charge certificate was relaxed and it was decided to accept the certificates of two central pensioners of the same or neighbouring District in case the camp-in-charge was no more alive.

16. That the Internal Guidelines for processing these cases were finalized with the approval of the then Minister of State for Home Affairs in September, 2002. However, since most of the cases were still not being covered, these guidelines were further relaxed and requirement of Personal Knowledge Certificate (PKC) was made as a corroborative evidence and deficiencies in the same were decided to be condoned. These guidelines were liberalized with the approval of the then Deputy Prime Minister in December 2002. All the Committee cases received with verification and recommendation of the State Government are being examined as per these guidelines.

18. The applicant had claimed to be 78 years old in 1984, whereas the State Government had verified his age as 70 years in voter list of 1993. The wide variation in the age mentioned by the claimant in his application and that reported by the State Government creates serious doubts about the genuineness of his claim.

19. That the subsequent representation of the petitioner, received through Hon'ble Minister of State for Statistics and Programme Implementation was duly considered, but it was not found possible to change the earlier decision of rejected taken in the case. A copy of letter sent by Hon'ble Home Minister on 24-6-2004 is enclosed herewith as **Annexure R-I.**

20. The petitioner has claimed that his case was recommended by the HSSC. However, the HSSC recommendation slip in the file of the petitioner is blank

> and can therefore not be accepted as a valid HSSC-recommended slip. Only the name and father's name had been mentioned. The name of the border camp & certifier, date of receipt of application, age/date of birth etc. none of essential, basic particulars are mentioned in the slip. None of the columns (which show due chronological filling-up/processing of the HSSC-recommendation slip) have been filled up, and all the columns are blank. The signatures of the Committee members are undated. One Committee member has not signed the slip. This blank HSSC-recommendation slip does not show the due process of examination and consideration of the claim; it also does not reflect the due recommendation-making process. Therefore, this type of a blank slip is not a valid recommendation slip. Therefore, his case cannot be taken to be an HSSC-recommended case."

The petitioner has neither filed rejoinder affidavit nor he has placed any material before the Court to clarify the discrepancy noticed by the Government of India about the age mentioned in the application made by him and the verification report sent by the State Government.

I have heard learned counsel for the parties. In my opinion, the petitioner's failure to offer any tangible explanation for 17 years difference between the age mentioned in application and the verification report sent by the State Government is sufficient to discredit his claim that he had taken part in the freedom struggle. The petitioner's assertion (as contained in paragraph 7 of his affidavit) that he is an illiterate rustic villager and the age mentioned in the application is nothing but a typographical error cannot be relied for negating the report sent by the State Government.

In the premise aforesaid, I hold that the petitioner has

failed to make out a case for issue of a mandamus to the respondents to entertain his claim for grant of pension under the 1980 Scheme and the writ petition is liable to be dismissed. Ordered accordingly.

**G.S. SINGHVI, CJ**

October 31, 2006
svs